



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,115	11/17/2004	Makiko Saito	OGA-006	7907

7590
Kubovcik & Kubovcik
The Farragut Building
Suite 710
900 17th Street NW
Washington, DC 20006

11/08/2007

EXAMINER

RONESI, VICKEY M

ART UNIT	PAPER NUMBER
----------	--------------

1796

MAIL DATE	DELIVERY MODE
-----------	---------------

11/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,115

Applicant(s)

SAITO ET AL.

Examiner

Vickey Ronesi

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 4, 8, and 14-16 are objected to because of the following reasons:

With respect to claim 1, line 1, the term "the" before "injection molding" should be deleted because "injection molding" does not have antecedent basis.

With respect to claim 8, line 4, the term "swellable phyllosilicate" should be deleted because the exchangeable positive ions are being defined and not the phyllosilicate.

With respect to claims 4 and 14-16, the term "a" in "a polyamide resin composition" should be replaced with "said" or "the" given that "polyamide resin composition" has antecedent basis in claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 5, it appears to improperly recite a Markush group. Consequently, it is impossible to determine which elements of the group are required by the claim. When materials recited in a claim are so related as to constitute a proper Markush group, they may be recited in the conventional manner, or alternatively. For example, if "wherein R is a material

selected from the group consisting of A, B, C and D” is a proper limitation, then “wherein R is A, B, C or D” shall also be considered proper (emphasis added). See MPEP § 2173.05(h).

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-10, and 12-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Oyamada (JP 10-298426, cited on IDS dated 11/17/2004).

In setting forth this rejection, a machine translation has been relied upon.

Oyamada discloses a polyamide resin composite material for use in fuse box or fuse case (paragraph 0027) comprising polyamide resin such as caprolactam (i.e., nylon 6) (paragraph 0011) and a swellable layered silicate such as montmorillonite (paragraph 0015) which is swelled with organic onium ions (paragraph 0023)—wherein the composite is prepared by melt kneading (paragraph 0025). Oyamada fails to disclose the heat of fusion, size of spherulites, or the transmittance of the molded composite, nevertheless, given that Oyamada teaches a

composite with identical ingredients used in the same manner as presently claimed, it is the examiner's position that these properties are evidently dependent upon the nature of the composition used. Case law holds that a material and its properties are inseparable. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

In light of the above, it is clear that Oyamada anticipates the presently cited claims.

Alternatively, the presently claimed properties of heat of fusion, size of spherulites, or the transmittance would obviously have been present once the Oyamada product is provided.

Claim Rejections - 35 USC § 103

4. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oyamada (JP 10-298426, cited on IDS dated 11/17/2004).

The discussion with respect to Oyamada in paragraph 3 above is incorporated here by reference.

With respect to claim 7, Oyamada does not exemplify or explicitly disclose the use of a blend of crystalline and low-crystalline or amorphous polyamides.

Oyamada discloses the use of both polyamide homo- and copolymers (i.e., low-crystalline or amorphous polyamides) and teaches the use of blends (paragraph 0011).

Given that Oyamada teaches the use of blends of polyamides including both crystalline and low-crystalline or amorphous polyamides, it would have been obvious to one of ordinary skill in the art to utilize this mixture in the polyamide composite, absent evidence of unexpected or surprising results.

With respect to claim 11, Oyamada does not exemplify the use of a nucleating agent.

Oyamada discloses the use of a variety of additives which include a nucleating agent (paragraph 0026).

Given that Oyamada teaches the use of a nucleating agent, it would have been obvious to one of ordinary skill in the art to utilize a nucleating agent to control crystallization properties of polyamide composite.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The International Search Report for PCT/JP02/13748 discloses as X references JP 64-11157, JP 2001-302845, and JP 2000-212432. These references have been considered, however, they are not used in the prior art rejections of record because they are cumulative to those rejections.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickey Ronesi whose telephone number is (571) 272-2701. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Application/Control Number:
10/500,115
Art Unit: 1796

Page 6

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/4/2007
Vickey Ronesi



/Vasu Jagannathan/
Supervisory Patent Examiner
Technology Center 1700